

Message Text

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ACTION OPIC-06

INFO OCT-01 NEA-06 ISO-00 L-02 EB-07 OMB-01 SP-02 TRSE-00

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R 260910Z NOV 74

FM AMEMBASSY DACCA

TO SECSTATE WASHDC 5003

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E.O. 11652: N/A

TAGS: EINV, BG

SUBJECT: OPIC AGREEMENT

REF: A. STATE 252966 B. DACCA 4878

1. EMBOFFS MET WITH GOLAM MUSTAFA, SECRETARY, MINISTRY OF INDUSTRIES, NOVEMBER 25. TEXT OF OPIC AGREEMENT, INCLUDING CHANGES MENTIONED IN REF A, IS ACCEPTABLE TO BDG.

2. SIDE LETTERS. MUSTAFA AGAIN STATED BDG POSITION ON QUESTIONS RELATING TO PRE-INDEPENDENCE AGREEMENTS CONCLUDED WITH PAKISTAN. BDG, IN EFFECT, WAS NOT PREPARED TO ACKNOWLEDGE THAT IT WAS BOUND BY ANY PREVIOUS AGREEMENT WITH PAKISTAN OR (NOW, AT LEAST) PREPARED TO TAKE ANY STEP IMPLYING BDG ACKNOWLEDGMENT OF CLAIMS ARISING FROM SUCH AGREEMENTS.

(A) SQUIBB: DISCUSSION PRODUCED SUGGESTION THAT SIDE LETTER COVERING SQUIBB STATE THAT ANY CLAIMS INVOLVING SQUIBB/OPIC/BDG WILL BE COVERED BY THE TERMS OF THE PROPOSED NEW AGREEMENT IF THEY ARISE SUBSEQUENT TO THE SIGNING OF THE NEW AGREEMENT. SINCE THERE ARE NO SQUIBB CLAIMS OUTSTANDING, WE WOULD HOPE THE TEXT PROPOSED (PARA 4 REF A) MIGHT BE ACCEPTABLE IF THE SECOND SENTENCE COULD BE CHANGED TO READ ALONG FOLLOWING LINES: "THE TERMS OF THAT AGREEMENT SHALL BE DEEMED TO APPLY TO ANY CLAIM ARISING SUBSEQUENT TO THE SIGNING OF THAT AGREEMENT INVOLVING THE INVESTMENT OF E. R. SQUIBB AND SONS, INC. IN SQUIBB OF BANGLADESH". MUSTAFA STATED THAT THIS LANGUAGE WOULD HAVE TO BE CLEARED WITH OTHER BDG LIMITED OFFICIAL USE

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MINISTRIES BUT THAT HE WOULD BE PREPARED TO SEEK BDG APPROVAL OF IT.

(B) BELBAGCO: IN AN EARLIER MEETING, MATIUR RAHMAN, SECRETARY, MINISTRY OF INDUSTRIES, TOLD EMBOFFS THAT A COMMITTEE HAS BEEN ESTABLISHED (CHAIRMANED BY RAHMAN) TO ESTABLISH A COMPENSATION POLICY FOR ALL NATIONALIZED INDUSTRIES (DACCA 5411). BDG IS ON PUBLIC RECORD AS WILLING TO COMPENSATE BELBAGCO AND ALL OTHER COMPANIES WHOSE ASSETS WERE NATIONALIZED. ACCORDING TO MUSTAFA, BDG WOULD BE WILLING TO ACKNOWLEDGE IN SIDE LETTER: (1) OPIC'S INTEREST IN BELBAGCO CLAIM (IN CASE OF SUBROGATION); (2) TO AGREE TO OPIC CURRENCY USE PROVISIONS; AND (3) TO STATE BDG INTENTION TO PAY NATIONALIZATION COMPENSATION DUE BELBAGCO. THUS, BDG FULLY INTENDS TO DEAL DIRECTLY WITH INVESTOR AND MATTER NEED NOT WAIT UNTIL OPIC IS SUBROGATED. IN LINE WITH CONCERN DESCRIBED ABOVE, HOWEVER, BDG WOULD NOT REPEAT NOT BE WILLING TO ACKNOWLEDGE FORMALLY ANY RESPONSIBILITY TO SUBMIT TO THIRD-PARTY ARBITRATION UNDER THE TERMS AND CONDITIONS OF THE PREVIOUS AGREEMENT WITH PAKISTAN OR THE PROPOSED NEW OPIC AGREEMENT THE BASIS OF ANY COMPENSATION TO BE PAID AS A RESULT OF NATIONALIZING BELBAGCO. ACCORDING TO MUSTAFA, BDG DOES NOT CONSIDER ITSELF BOUND BY ANY PREVIOUS AGREEMENT CONCLUDED BY PAKISTAN. CONSEQUENTLY, MUSTAFA ARGUES, PENDING BELBAGCO CLAIM MUST BE TREATED OUTSIDE THE PROPOSED OPIC AGREEMENT OR THE PREVIOUS AGREEMENT WITH PAKISTAN.

3. PLEASE ADVISE:

(A) IF LANGUAGE PROPOSED FOR SIDE LETTER COVERING SQUIBB (PARA 2(A)) IS ACCEPTABLE;

(B) IF APPLICATION TO THE BELBAGCO CASE OF ALL THE TERMS AND CONDITIONS OF NEW OPIC AGREEMENT IS PRECONDITION TO SIGNING OR MAY BELBAGCO CLAIM BE TREATED SEPARATELY.

(C) IF BELBAGCO CLAIM MAY BE TREATED SEPARATELY, IS INCLUSION OF BELBAGCO IN SIDE LETTER NECESSARY?
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Message Attributes

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Concepts: FOREIGN INVESTMENT, AGREEMENTS
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Copy: SINGLE
Draft Date: 26 NOV 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974DACCA05412
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740343-0979
From: DACCA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741113/aaaaakeu.tel
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Original Classification: LIMITED OFFICIAL USE
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